

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MALIK SHABAZZ,)	CASE NO. 1:11cv1185
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	
)	MEMORANDUM OF OPINION AND
)	ORDER
WILLIAM MASON, et al,)	
)	
)	
DEFENDANTS.)	

On June 9, 2011, plaintiff *pro se* Malik Shabazz filed this *in forma pauperis* 42 U.S.C. § 1983 action against Cuyahoga County Prosecutor William Mason, and the following Cleveland Police officers: P.O. Siefer, P.O. Rivera, P.O. Ginley, and P.O. Gulas. The complaint alleges Mason prosecuted Shabazz on charges that were not even formally lodged. It is further alleged that the defendant Cleveland Police Officers assaulted Shabazz while he was handcuffed, punching, kicking, stomping and dragging him. Shabazz suffered injuries to his face from the alleged assault, and now has migraines and vision problems.

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the district court is required to dismiss an *in forma pauperis* action under 28 U.S.C. § 1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996).

While the claims against the defendant police officers may have arguable merit, the

same cannot be said regarding the claim against Prosecutor Mason. Prosecutors are immune from liability for actions taken within the scope of their official duties when functioning as an advocate for the State. *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993); *Imbler v. Pachtman*, 424 U.S. 409 (1976). There is no indication in the complaint that Mason acted outside that capacity with regard to the actions of which plaintiff complains.

For the foregoing reasons, William Mason is **dismissed** from this action pursuant to 28 U.S.C. § 1915(e), and the court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from his dismissal could not be taken in good faith. Plaintiff's request to proceed *in forma pauperis* is **granted**. The Clerk's Office is directed to forward the appropriate documents to the U.S. Marshal for service of process on the remaining defendants. **A copy of this order shall be included with the documents to be served on those defendants.**

IT IS SO ORDERED.

Dated: September 27, 2011



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE